

Docket No. 00-0455

ICC Staff Exhibit 1,000

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DIRECT TESTIMONY

ROY A. KING

RATES DEPARTMENT

FINANCIAL ANALYSIS DIVISION

ILLINOIS COMMERCE COMMISSION

CEDAR WATER COMPANY, INC.

DOCKET NO. 00-0455

October, 2000

1 **Q. Please state your name and business address.**

2 A. My name is Roy A. King. My business address is 527 East Capitol
3 Avenue, P. O. 19280, Springfield, Illinois.

4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (Commission) as an
7 Economic Analyst in the Water Department of the Financial Analysis Di-
8 vision (FAD).

9

10 **Q. How long have you been employed by the Commission?**

11 A. Since August of 1979.

12

13 **Q. Will you please briefly state your qualifications?**

14 A. I graduated from Chicago Technical College in 1970 with a Bachelor of
15 Science degree in Architectural Engineering.

16

17 From 1970 to May 1979, I served with the U.S. Navy. My assignments
18 included those of Maintenance Supervisor, Instructor, Counselor for a
19 Drug and Alcohol Program, and managing a division of 30 men and its
20 related equipment. Since August 1979, I have been continuously em-
21 ployed by the Commission. Until mid-1982, I was assigned to the Public
22 Utilities Division, Engineering Department, Gas and Electric Section as a

1 Utility Engineer. My duties were to assist the Chief Gas Engineer and
2 the Chief Engineer in the administration of all engineering matters asso-
3 ciated with the regulation of privately owned gas and electric utilities in
4 the State of Illinois. During this period, my duties included (1) evaluat-
5 ing rate filings and rules and regulations filings, (2) assisting the Con-
6 sumer Services Division, upon request, in handling investigations and
7 correspondence relating to electric and gas inquiries and complaints, (3)
8 evaluating testimony presented by the utilities and conducting cross-
9 examination, (4) testifying on behalf of Commission Staff (Staff) in appli-
10 cations for Certificates of Convenience and Necessity (Certificates), rate
11 proceedings and other formal cases which contain issues requiring re-
12 view by the Engineering Department, and (5) processing other work as
13 directed by the Chief Engineer.

14
15 In 1982, Staff functions were reorganized and I was assigned to the
16 Water and Sewer Section within the Engineering Department. My duties
17 were very similar to those previously described, except that I worked on
18 matters associated with water and sewer utilities.

19
20 In November of 1992, engineering and rate matters for water and sewer
21 utilities were transferred to the Office of Policy and Planning (OPP) and I
22 was assigned to OPP. My duties included (1) evaluating rate schedule

1 filings, and rules and regulations filings, (2) assisting the Consumer
2 Services Division, upon request, in handling inquiries and complaints, (3)
3 evaluating testimony presented by the utilities and conducting cross-
4 examination, (4) testifying on behalf of Staff in applications for Certifi-
5 cates, rate proceedings, and other formal cases which contain issues re-
6 quiring review by OPP, and (5) reviewing cost-of-service studies for the
7 water and sewer utilities when so assigned.

8
9 In 1997, Staff's functions were reorganized and I was assigned to the
10 Rates Department within FAD (formerly Public Utilities Division). In
11 1999, the Rates Department was reorganized and I was assigned to the
12 Water Department within FAD. My duties are the same as those previ-
13 ously described.

14
15 Since being employed by the Commission, I have received an Associates
16 Degree in Business Administration from Lincoln Land Community Col-
17 lege, Springfield, Illinois, and in 1985, I received a Bachelor of Arts De-
18 gree in Management from the University of Illinois, Springfield (formerly
19 Sangamon State University), Springfield, Illinois.

20
21 In addition, I have attended a number of courses regarding utility
22 regulation, including several sponsored by the National Association of

1 Regulatory Utility Commissioners (NARUC). I completed a one-week
2 utility rate seminar co-sponsored by the NARUC Water Committee and
3 the University of Utah Center for Continuing Education. I have also
4 completed a course in Sewage Treatment Plant Operations which was
5 sponsored by the Environmental Training Resource Center at Southern
6 Illinois University and three courses in depreciation practices which were
7 sponsored by Depreciation Programs, Inc.

8
9 **Q. Are you a member of any professional organizations?**

10 A. Yes, I am a member of the Illinois Potable Water Operator's Association
11 and the American Water Works Association.

12
13 **Q. What is the purpose of this proceeding?**

14 A. Cedar Water Company, Inc. (Cedar or Company) has filed a petition for a
15 Certificate of Public Convenience and Necessity (Certificate) to provide
16 water services to Lawndale Meadows Subdivision located in Knox
17 County, Illinois. Cedar is also requesting approval of an agreement with
18 Nathaniel Group, LLC (Developer) to provide the funds for the installation
19 of approximately 1,400 feet of 6" diameter main to serve 17 lots and a
20 portion of the cost for the additional storage tank.

1 **Q. What is your assignment in this case?**

2 A. I was assigned by the Director of the Water Department to participate on
3 behalf of the Department to examine Cedar's request for a Certificate to
4 serve approximately 17 lots in the Lawndale Meadows Subdivision and to
5 review the agreement between Cedar and Nathaniel Group, LLC. Specifi-
6 cally, I am responsible for presenting testimony regarding whether a need
7 exists for a Certificate to provide water service in the proposed area; and
8 whether Staff should recommend approval of the agreement between Ce-
9 dar and Nathaniel Group, LLC.

10

11 **Q. Are you familiar with the information provided by Cedar and the**
12 **engineering firm of Bruner, Cooper & Zuck in response to your oral**
13 **data requests at the last status hearing on August 30, 2000?**

14 A. Yes, I have personally reviewed the information received by them on
15 September 26, 2000.

16

17 **Q. Please explain what the requirements are for the utility to re-**
18 **ceive a Certificate to construct water facilities and/or to pro-**
19 **vide service to the area?**

20 A. Section 8-406(b) of the Public Utilities Act (Act), states in
21 part:

22 "The Commission shall determine that proposed construction will
23 promote the public convenience and necessity only if the utility

1 demonstrates: (1) that the proposed construction is necessary to
2 provide adequate, reliable and efficient service to its customers
3 and is the least cost means of satisfying the service needs of its
4 customers; (2) that the utility is capable of efficiently managing
5 and supervising the construction process and has taken sufficient
6 action to ensure adequate and efficient construction and supervi-
7 sion thereof; and (3) that the utility is capable of financing the
8 proposed construction without significant adverse financial con-
9 sequences for the utility or its customers.”
10

11 **Q. After reviewing the information provided by the Company, is it**
12 **your opinion that Cedar has demonstrated that the proposed**
13 **construction is necessary to provide adequate, reliable and ef-**
14 **ficient service to its customers?**

15 A. In my opinion, the Company has demonstrated that a need exists
16 for the construction of the water facilities to provide service to the
17 proposed area of Lawndale Meadows Subdivision. I based my
18 opinion on my review of the information provided by them and the
19 construction permit issued by the Illinois Environmental Protection
20 Agency (IEPA) to Cedar on May 10, 2000. Further, based on my
21 experience and review of IEPA's reports, it appears that Cedar can
22 provide adequate, and efficient service to their customers.
23

24 **Q. Has the company demonstrated that the proposed main exten-**
25 **sion is the least-cost method of providing water and sewer**
26 **service to the customers in the proposed area?**

27 A. The Company provided no support for determining the least-cost

1 method of providing water service to the Lawndale Meadows subdi-
2 vision. However, it is my opinion that the most cost efficient
3 method for Lawndale Meadows Subdivision to receive water service
4 would be for Lawndale Meadows to connect its mains to Cedar's
5 and merge them with their existing water system. The proposed
6 area is contiguous to Cedar existing service area.

7
8 Another option if available, is for the City of Galesburg to extend
9 their water main to the Lawndale Meadows Subdivision. Under
10 this option, the City of Galesburg would need to extend a main ap-
11 proximately 3.5 miles to the proposed area. It is estimated that the
12 cost would be approximately \$370,000. The estimate would be
13 higher if a booster station would be needed to maintain adequate
14 pressure on the system.

15
16 **Q. In your opinion, has Cedar demonstrated that it is financially**
17 **and operationally able to provide service to the area?**

18 A. Yes. Based on the Company's 1999 Annual Report filed with the Com-
19 mission, it appears that the Company's rate of return is 11.08%.

20
21 **Q. Based on your review of information provided by the Company and**
22 **the engineering firm, is it your opinion that Cedar has demonstrated**

1 **that a need exists for a Certificate for water service to the Lawndale**
2 **Meadow Subdivision?**

3 A. Yes, it is.

5 **Q. Based on your investigation, could you indicate the size of the water**
6 **mains proposed to be installed in the Lawndale Meadows Subdivi-**
7 **sion?**

8 A. Yes. Based on the information from the Company and IEPA construction
9 permit issued to Cedar, six (6) inch (") diameter (dia.) water mains will
10 supply water to the proposed area.

12 **Q. In your opinion does the installation of 6" dia. water mains comply**
13 **with 83 Ill. Adm. Code Part 600, "Standards of Service for Water**
14 **Utilities"?**

15 A. Based on my understanding and interpretation of Part 600.370, "Service
16 to New Customers," the installation of 6" dia. mains appears to meet the
17 requirements set forth in Part 600.370. Section 600.370(b)(1)states in
18 part:

19 "Extensions made under this Section shall be on the basis of a
20 main size of eight (8) inches in diameter unless the requirements
21 of the customer or customers to be served call for a larger main,
22 in which case the cost shall be based on the larger main. In spe-
23 cial cases, exceptions to the size can be made by the utility to
24 comply with good engineering principles."

1 In this instance, the design of the proposed water main to provide service
2 to Lawndale Meadows Subdivision is consistent with the existing 6" and
3 4" mains already installed in Cedar's service area.

4
5 **AGREEMENT**

6
7 **Q. Have you reviewed the Agreement between National Group LLC. and**
8 **Cedar which is attached to the Petition?**

9 A. Yes.

10
11 **Q. Under which provisions of the Public Utilities Act is the Company**
12 **requesting approval of the Agreement between National Group LLC.**
13 **and Cedar?**

14 A. Section 9-102, paragraph 3 of the Act which states in part:

15
16 "Every public utility shall file with the Commission copies of all
17 contracts, agreements or arrangements with other public utili-
18 ties, in relation to any service, product or commodity affected by
19 the provisions of this Act, to which it may be a party, and copies
20 of all other contracts, agreements or arrangements with any
21 other person or corporation affecting in the judgment of the
22 Commission the cost to such public utility of any service, prod-
23 uct or commodity."

24
25 Also, Section 9-104 of the Act, which states in part:

26
27 "No public utility shall undertake to perform any service or to fur-
28 nish any product or commodity unless or until the rates and
29 other charges and classifications, rules and regulations relating
30 thereto, applicable to such service , product or commodity, have
31 been filed and published in accordance with the provisions of
32 this Act."

1 **Q. What are the requirements for a developer and/or a customer**
2 **requesting a main extension from a utility?**

3 A. Developers and customers requesting water service, which requires a
4 main extension, would be governed by 83 IL. Adm. Code Part 600. Sec-
5 tion 600.370, "Service to New Customers." The section outlines all
6 terms and conditions for the water main extension to be made by the
7 prospective customer and the Company.

8
9 **Q. In your opinion, is the Agreement reasonable for National Group LLC**
10 **to advance a portion of the cost for the additional hydropneumatic**
11 **storage tank (backbone plant) and the mains?**

12 A. In my opinion, the Agreement between National Group LLC and Cedar for
13 National Group LLC to advance a portion of the funds for the water
14 backbone plant and mains is reasonable.

15
16 Having the Developer either initially advance the funds or construct the
17 water facilities, protects the Company and the existing customers re-
18 ceiving service in case of slow or even a failed development. The ad-
19 vancement of funds places the risk for the development on the developer
20 rather than Cedar.

1 In this instance, the Company is proposing to start refunds to the
2 developer when the 10th customer connects to the system. The Company
3 proposes to refund approximately \$220 for each customer for the next 7
4 customers that connects to the system. It is estimated that the 10th
5 customer would attached in 2003, therefore, under the proposal and in
6 accordance to Part 600, refunds would be made until the year of 2013. If
7 the subdivision fully develops, the utility would have refunded a total of
8 \$14,960. That is in substantial compliance with the requirements of
9 Part 600.

10
11 In determining the appropriate levels of refunds to made by the Com-
12 pany, it is necessary to consider the purpose of a public utility. The pur-
13 pose of a public utility is to permit a group of investors to make an in-
14 vestment in a necessary utility service, provide that service and then re-
15 cover reasonable operating expenses and earn a reasonable return on
16 that investment. Regulation serves as a replacement for competition
17 which is not practical for most utility services. Regulation is definitely
18 not intended to develop a system which aids a utility in accumulating
19 significant asset through little or no investment by its stockholders.

20
21 Electric and gas utilities make an investment and provide a necessary
22 service. In most cases, electric and gas utilities do not require a devel-

1 oper to contribute or even advance funds for the cost of facilities in order
2 to have service installed in a subdivision. Electric and gas utilities make
3 an investment in a utility plant, provide a necessary service, and earn a
4 return on their investment.

5
6 Water and sewer utilities have been treated somewhat differently than
7 electric and gas utilities due to the high level of investment per customer
8 for water/sewer utilities and the predominance of municipally-owned utili-
9 ties, which typically require a developer to contribute all the facilities
10 plus some amount toward the backbone plant. However, there is a dif-
11 ference between investor and municipally-owned utilities that should not
12 be ignored in deciding the appropriate level of investment by a wa-
13 ter/sewer utility.

14
15 The difference between an investor-owned system and a municipally-
16 owned system is that with an investor-owned system, the investors own
17 the system and can sell their assets and keep any gain realized on those
18 assets. If a municipality sells its utility assets, any gain realized accrues
19 to the benefit of the customers (the citizens of that municipality). The
20 potential for a gain to the stockholders of an investor-owned system is
21 tremendous when all the assets are acquired as a result of contributions
22 by developers and/or customers. Generally, regulation should not be

1 such that it promotes and encourages the potential for such gains while
2 simultaneously decreasing the investor's liability in financing the opera-
3 tion and increasing the likelihood of poor quality service.

4
5 **Q. Do you support the issuance of a certificate of public convenience**
6 **and necessity by the Commission as requested by Cedar to serve the**
7 **Lawndale Meadows area?**

8 A. Even though the Company has not provided information as to whether
9 their proposal is the least cost method to provide service to the Subdivi-
10 sion, I support the issuance of a certificate of public convenience and ne-
11 cessity to the Company for the reasons set forth above in which I testified
12 that I believe the proposal is the least cost method to provide water serv-
13 ice.

14
15 **Q. Do you support the approval of the Agreement between Cedar and**
16 **National Group LLC to serve the Lawndale Meadows area?**

17 A. Yes, I do for the reasons set forth above.

18
19 **Q. Does this conclude your Direct Testimony?**

20 A Yes, it does.

Cedar Water Company, Inc.

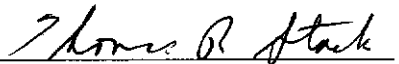
Application for a certificate of public
convenience and necessity under 8-406
of the Public Utilities Act to construct
operate and maintain certain water
distribution facilities and thereby
transact the business of furnishing
water service to the public in certain
parts of Knox County, Illinois; and for
consent to and approval of a certain
contract for water service.

00-0455

NOTICE OF FILING

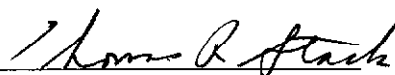
To: Attached Service List

PLEASE TAKE NOTICE that we have on this 6th day of October, 2000
filed with the Chief Clerk of the Illinois Commerce Commission, Staff's
Testimony in the above referenced docket, copies of which are hereby served
upon you.


Thomas R. Stack, Director
Water Department

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing, together with
Staff's Testimony in the above referenced docket, were transmitted by mailed to
the actual parties on the attached service list by first class mail, proper postage
prepaid, on the 6th day of October, 2000.


Thomas R. Stack, Director

CEDAR WATER COMPANY, INC.

Docket No. 00-0455

Service List

Kevan J. Cooper
Bruner, Cooper & Zuck, Inc.
188 East Simmons St.
Galesburg, IL 61401

George Swing
Cedar Water Company, Inc.
383 E. Ferris St.
Galesburg, IL 61401